

**OFFICIAL****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re:

Applicant: Tiano et al.

Atty. Docket No.: Tiano

Serial No.: 09/809,738

Examiner: Curtis E. Sherrer

Filing Date: March 14, 2001

Art Unit: 1761

Entitled: NUTRITIONAL PRODUCT WITH HIGH PROTEIN, LOW CARBOHYDRATE  
CONTENT AND GOOD PHYSICAL STABILITY**CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.6(d)**Date of Transmission: 3/13/03 - 8 pages.

I hereby certify that this correspondence is being sent via facsimile to (703) 305-3602 to the  
Attention of Examiner Curtis E. Sherrer in care of the Commissioner for Patents, BOX - NON-FEE  
AMENDMENT, Washington, D.C. 20231.

*Jennifer Warner*  
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Jennifer Warner

**SUPPLEMENTAL COMMUNICATION UNDER 37 CFR 1.111**

Dear Sir:

This communication is in response to a communication from the Examiner in charge of this application, which was mailed on February 26, 2003. The Examiner states that the Reply filed by Applicants on December 10, 2002 was not fully responsive to the Office Action because the obviousness rejection based on Atkins Shake Mix (Reference X) in light of Atkins Cappuccino Shake Mix (Reference U) was not addressed. Applicants thank the Examiner for the one month period of time to supply the omission in order to avoid abandonment of this application.

**REMARKS**

The Examiner's rejection of claims 4 and 6-10 under 35 USC §103(a) as being unpatentable over Atkins Shake Mix (New York Times, January 11, 2000) (Reference X) in light of Atkins Cappuccino Shake Mix label (Reference U) is traversed. Contrary to the Examiner's assertion, the Atkins Shake Mix label, does not set forth the date that the Atkins mix was used.